

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

MATTHEW R. TALAMO,

Defendant.

) Criminal No. 5:23-cr-484-BKS

)

) **Information**

)

) Violation: 18 U.S.C. § 371
) [Conspiracy to Violate the
) Clean Air Act]

)

) 1 Count

)

) County of Offense: Oswego

THE UNITED STATES ATTORNEY CHARGES:

BACKGROUND

1. The Clean Air Act protects the nation's air quality by, among other things, regulating vehicle emissions that pollute the air with pollutants such as nitrogen oxides, particulate matter, non-methane hydrocarbons, and carbon monoxide. These pollutants have been shown to cause cancer, as well as lung, neurological, cardiovascular, and immune system damage. Diesel exhaust is one of the largest sources of such pollutants.

2. The Clean Air Act requires the Environmental Protection Agency ("EPA") to prescribe standards, by regulation, to control emissions from motor vehicles which cause and contribute to air pollution and which may reasonably be anticipated to endanger public health and welfare. 42 U.S.C. § 7521(a)(1). Vehicles with heavy-duty diesel engines and light-duty diesel engines are subject to the emissions regulations found at 40 C.F.R. Part 86, Subparts A and B, respectively.

3. The Clean Air Act also mandates the installation and maintenance of emission control devices on certain motor vehicles. 42 U.S.C. §§ 7521-54. The function of these emission control devices is to reduce the emission of pollutants from motor vehicles.

4. To meet applicable emission standards, vehicle manufacturers design and install certain hardware devices as components of an emission control system to manage and treat engine exhaust. This reduces the levels of pollutants such as nitrogen oxides, particulate matter, non-methane hydrocarbons, and carbon monoxide that are emitted into the air from tailpipe exhaust and keep those emissions within regulatory limits. For diesel engines, such emission control devices include diesel particulate filters (“DPF”), exhaust gas recirculation (“EGR”) systems, diesel oxidation catalyst (“DOC”), NO_x adsorber catalyst systems (“NAC”), and selective catalytic reduction (“SCR”) systems.

5. One method used to disable a vehicle’s emission control system is to remove portions of the exhaust system containing emission control components such as the DPF, DOC, and SCR and install in their place a section of hollow exhaust tubing known as a “straight pipe.”

6. Pursuant to 42 U.S.C. § 7521(m)(1), the EPA was authorized to promulgate regulations requiring manufacturers to install on-board diagnostic (“OBD”) systems on vehicles and engines to monitor emission control systems to ensure they function properly. The EPA accordingly enacted regulations requiring manufacturers to install OBD systems on vehicles, including those with light-duty and heavy-duty diesel engines, “capable of monitoring all emission-related powertrain systems or components during the applicable useful life of the vehicle.” 40 C.F.R. §§ 86.1806-05, 86.010-18. Standardized OBD requirements for engines used in diesel trucks have been phased in since approximately 2010. All engines in the following classes and for the following model years must be equipped with OBDs: 1997 model year forward for

light-duty diesel trucks; 2008 model year forward for heavy-duty diesel trucks with a gross vehicle weight rating lower than 14,000 pounds; 2013 model year forward for heavy-duty diesel trucks with a gross vehicle weight rating greater than 14,000 pounds.

7. The OBD system operates within a vehicle's "electronic control module" (ECM), which is essentially an on-board computer that receives inputs from various sensors and sends outputs through activators to control engine, vehicle, or equipment functions, including emission control components. The OBD system is composed of software and sensors that monitor emissions-related engine systems and components. If an emissions-related malfunction or problem occurs, the OBD system causes a malfunction indicator light (MIL) to be illuminated on the vehicle's dashboard and a diagnostic trouble code (DTC) to be stored in the OBD's memory. These functions facilitate the detection and diagnosis of a malfunction in the emission control system. If the malfunction is significant and is not resolved, the OBD system may limit the top speed of the vehicle to as low as five miles per hours (an effect commonly referred to as "limp mode" or "power reduced mode"), providing an incentive for the vehicle's operator to seek repairs.

8. When an illegal vehicle emissions system defeat device, often known as a "tuner," is downloaded onto a vehicle's OBD, the software, or "tune," disables the OBD's monitoring function, preventing the MIL from illuminating on the dashboard and the DTC from being stored in the OBD. This serves to conceal the tampering of the emission controls and prevents the vehicle from entering "limp mode." This tampering, or "tuning," allows the vehicle to run with increased horsepower and torque and can reduce the costs of maintaining and repairing the emission control system, but it also results in the vehicle's release into the atmosphere of significantly increased pollutant emissions.

9. At all times relevant to this information, the defendant, **MATTHEW R. TALAMO**, was the owner of Southern Diesel Truck Co. and Southern Diesel and Off-Road LLC (collectively “Southern Diesel”), a vehicle dealership and servicing company located in Oswego, New York, which specializes in buying and reselling diesel passenger and commercial vehicles and performing after-market modifications to diesel passenger and commercial vehicles (collectively referred to hereinafter as “diesel vehicles”).

COUNT 1
[Conspiracy to Violate the Clean Air Act]

10. The allegations set out in Paragraphs 1 through 9 above are hereby incorporated by reference as if fully set forth herein.

11. From on or about January 1, 2018, and continuing thereafter until in or around November 2022, in Oswego County in the Northern District of New York and elsewhere, the defendant, **MATTHEW R. TALAMO**, did knowingly and voluntarily conspire and agree with persons both known and unknown to the grand jury, to commit an offense against the United States, namely to violate the Clean Air Act by tampering with and rendering inaccurate monitoring devices and methods required pursuant to the Clean Air Act to be maintained and followed, in violation of Title 42, United States Code, Section 7413(c)(2)(C).

Manner and Means of the Conspiracy

12. It was part of the conspiracy that **TALAMO** used the following manners and means, among others:

13. **TALAMO** repeatedly removed and instructed others to remove physical exhaust system components on diesel vehicles owned by customers and diesel vehicles offered for sale by Southern Diesel, and he repeatedly installed and instructed others to install in their place straight pipes to bypass emission control systems.

14. **TALAMO** ordered and instructed others to order tuners and tunes from third parties and repeatedly used and instructed others to use the tunes to tamper with the computerized OBD systems on diesel vehicles in order to prevent the OBDs from monitoring the emission control systems.

15. **TALAMO** advertised Southern Diesel and its services on a website and on various social media platforms, and he commonly described illegal modified diesel trucks as having a “performance exhaust” to signal to prospective customers that a vehicle had been or could be modified to bypass emission control monitoring devices, systems, and requirements.

16. Between on or about January 1, 2018, and on or about October 4, 2022, **TALAMO** and his employees tampered with the emission control monitoring devices and systems of approximately 244 diesel vehicles.

Overt Acts

17. In furtherance of the conspiracy and to effect the object of the conspiracy, the following overt acts, among others, were committed in the Northern District of New York and elsewhere:

18. On or about December 11, 2018, **TALAMO** sent an email to a prospective customer offering respective quotes of \$800 and \$1,299 for tuning a vehicle depending on the tuning option(s) chosen by the customer.

19. On or about December 13, 2019, **TALAMO** sent an email instructing a customer how to plug in a third-party tuner to a vehicle’s OBD and begin the process of tuning the vehicle.

20. On or about March 29, 2019, **TALAMO** sent a pricing estimate by email to a prospective customer offering to modify the exhaust system and tune the OBD on a 2015 Chevrolet Silverado 2500 HD LT for a total of \$2,648.

21. On or about December 16, 2019, **TALAMO** executed a motor vehicle bill of sale for a 2018 Ram 2550 diesel truck which Southern Diesel had previously “tuned” by tampering with emission control monitoring devices or methods on the vehicle.

22. On or about January 9, 2021, **TALAMO** released a video on the internet narrated by him in which he advertised and described a Ford F-450 diesel truck with “a modified exhaust” and which had been “modified and programmed with an [third-party tuner].”

23. On or about March 18, 2022, **TALAMO** executed a motor vehicle bill of sale for a 2019 Ford F-250 Lariat which Southern Diesel had modified in advance of the sale by installing a straight pipe and removing emission control hardware components.

24. On or about July 15, 2022, **TALAMO** issued an invoice to the owner of a 2011 GMC Sierra 2500 for \$1,750 before tax for Southern Diesel’s work to tamper with emission control monitoring devices or methods on the vehicle through the installation of a straight pipe and for having tuned the OBD.

All in violation of Title 18, United States Code, Section 371.

Dated: December 21, 2023

CARLA B. FREEDMAN
United States Attorney

By:



Michael F. Perry
Assistant United States Attorney
Bar Roll No. 518952